

**United States Department of Labor
Employees' Compensation Appeals Board**

_____)	
J.E., Appellant)	
)	Docket No. 18-0151
and)	Issued: April 9, 2018
)	
U.S. POSTAL SERVICE, POST OFFICE,)	
Pasco, WA, Employer)	
_____)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge

On October 23, 2017¹ appellant filed a timely application for review of an April 25, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP), which denied appellant's claim for wage-loss compensation for the period January 9 through February 13, 2017. The Board docketed the appeal as No. 18-0151.

The Board has duly considered the matter and finds that the case is not in posture for a decision and must be remanded to OWCP. In the case of *William A. Couch*,² the Board held that when adjudicating a claim, OWCP is obligated to consider all evidence properly submitted by a claimant and received by OWCP before the final decision is issued. Appellant submitted a

¹ Under the Board's *Rules of Procedure*, an appeal must be filed within 180 days from the date of issuance of an OWCP decision. An appeal is considered filed upon receipt by the Clerk of the Appellate Boards. See 20 C.F.R. § 501.3(e)-(f). One hundred and eighty days from April 25, 2017, the date of OWCP's last decision was October 22, 2017. As that date fell on Sunday, appellant had until the next business day, Monday, October 23, 2017 to file a timely appeal. Since using October 26, 2017, the date the appeal was received by the Clerk of the Appellate Boards would result in the loss of appeal rights, the date of the postmark is considered the date of filing. The date of the U.S. Postal Service postmark is October 23, 2017, rendering the appeal timely filed. See 20 C.F.R. § 501.3(f)(1)(2).

² 41 ECAB 548 (1990).

January 3, 2017 medical report from Dr. David W. Fischer, a Board-certified orthopedic surgeon. On February 22, 2017 she filed a claim (Form CA-7), requesting compensation for leave without pay (LWOP) beginning January 2 through February 17, 2017. In time analysis forms (Form CA-7a) dated February 22, 2017, appellant claimed LWOP for 23.48 total hours during the period January 9 through February 13, 2017 due to a doctor's appointment and physical therapy sessions.

OWCP, by letter dated February 24, 2017, authorized a payment of wage-loss compensation for 2.52 hours for a doctor's visit on January 3, 2017. It advised appellant that it had not received any evidence to support the remainder of her claim for wage-loss compensation on January 9, 11, 20, 23 and 30 and February 1, 3, 6, 8, 10, and 13, 2017. OWCP requested that she submit a medical note or therapy slip verifying treatment due to her accepted work-related injuries for the claimed dates. Appellant was afforded 30 days to submit the requested medical evidence. She resubmitted Dr. Fischer's January 3, 2017 report. Appellant submitted an additional report dated February 21, 2017 from Dr. Fischer and reports dated June 6 through December 30, 2016 and January 9 through March 15, 2017 from her physical therapists and physical therapist assistant.

In its April 25, 2017 decision, OWCP noted that 2.52 hours of wage-loss compensation on January 3, 2017 had been processed for payment, but denied appellant's claim for the remaining 20.96 hours of wage-loss compensation for the period January 9 through February 13, 2017. It noted that, in response to its February 24, 2017 development letter, it received Dr. Fischer's January 3 and February 21, 2017 examination notes and physical therapy notes dated June 6, October 3, 7, 11, 12, November 8, 10, 14, 18, 21, 30, December 5, 9, 12, 28, and 30, 2016." OWCP found that "[y]ou failed to submit further supporting medical evidence to establish your claimed disability." It did not note receipt or consideration of the additional reports from appellant's physical therapists and physical therapist assistant.

The Board finds that OWCP, in its April 25, 2017 decision, did not review the reports from appellant's physical therapists and physical therapist assistant dated January 9 through March 15, 2017. For this reason, the case will be remanded to OWCP to enable it to properly consider all the evidence submitted at the time of the April 25, 2017 decision. Following such further development as OWCP deems necessary, it shall issue an appropriate merit decision on the claim.

IT IS HEREBY ORDERED THAT the April 25, 2017 decision of the Office of Workers' Compensation Programs is set aside. The case is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: April 9, 2018
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board